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March 2, 2009

TO THOSE ADDRESSED ON SCHEDULE "A"

RE: Highway 35 Fuel Spill

Ladies and Gentlemen:

As most of you know, this office represents Keller Transport company with respect to the Highway 35 fuel spill that occurred on April 2, 2008. Four homeowners (Kohler, Jones, Arnold and Sykes) have initiated suit against a number of defendants in connection with the fuel spill as Cause No. DV 09-01 in the Twentieth Judicial District Court, Lake County.

At the time of the spill, Keller was insured under two insurance policies: (a) a primary policy with Carolina Casualty with limits of \$1 million; and (b) an excess policy with ACE Westchester with limits of \$4 million. The Carolina Casualty policy was exhausted early summer during initial response. As of January 2009, approximately \$2,985,500 of the excess policy has been exhausted through remediation tasks, construction of the treatment facility and payment to property owners for access, etc. In 2009, EPI estimates another \$777,155 will be needed to continue remediation. This leaves only \$237,345 in remaining insurance. Once the insurance is exhausted, bankruptcy becomes Keller's only viable alternative.

At this point, there are multiple competing interests for what is a rapidly dwindling pool of insurance proceeds. With the current remediation scenario and litigation, ACE Westchester would be inclined to interplead the remaining insurance proceeds. However, that would result in halting remediation. Therefore, Keller would propose – and ACE Westchester has agreed – that all of the parties sit down at a mediation to discuss if any possible resolution can be reached.

I realize that setting up a mediation with this many parties is going to be difficult and may require multiple days. I would suggest using Stu Kellner as the mediator. Please let me know your position on mediation and when in April and May you might be available.

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Very truly yours,

GARLINGTON, LOHN & ROBINSON, PLLP

A handwritten signature in blue ink, appearing to read "Charles", followed by a long, sweeping horizontal line that extends to the right.

Charles E. Hansberry
Direct Line: (406) 523-2592
Email: cehansberry@garlington.com

Cc: Mark Yavinsky
Debra Will
Laura Hawes
Thom Morin

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SCHEDULE A: ADDRESSEES

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